IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5713 OF 2006.

Mr.Anand Yeshwant Deokar
and others. ... Petitioner.

V/s.

The State of Maharashtra
and others. ... Respondents.

H.S.Anand for the petitioner.

Ms.V.S.Mhaispurkar, AGP for the State.

N.V.Walawalkar, senior counsel with A.A.Bhor for respondent No.2.

J.G.Reddy i/b. G.D.Utangale for resoondent No.3.

Y.S.Jahagirdar, senior counsel i/b. M/s.Kadam & Co. for respondent No.5.

CORAM: V.C.DAGA, J.

DATED: 25th September 2006.

P.C.:

. Heard learned counsel for the rival parties.

. Perused petition.

2. This petition is directed against the order of the appellate authority dated 18th August, 2006, whereby application for condonation of delay came to be rejected.

3. During the course of hearing, it is

brought to my notice the plaint pleading of S.C.Suit No.5674/2005; wherein, in para-8, reference is made to annexure-I; an agreement entered into in the month of September, 2004. The said agreement, specifically, refers to the declaration under section 4 of the Slum Act declaring the property as slum vide letter No.AMC/ES/O/35 published in the Maharashtra Government Gazette dated 1st January, 2004.

4. With these factual aspects, if one turns to the memo of appeal, filed by the present petitioners before the appellate authority, it is clear that the appellants therein (petitioners herein), specifically, contended that they got knowledge of this impugned notification on 7th June, 2006. Based on this knowledge, condonation of delay was sought. However, this statement made in the appeal was absolutely incorrect statement in view of the fact that by virtue of the agreement dated 16th September, 2004 they had knowledge of the said notification. In that view of the matter, the impugned order rejecting application for condonation of delay cannot be faulted.

5. Petition is, thus, dismissed in limine with no order as to costs.

(V.C.DAGA, J.)